



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUL 26 2006

OFFICE OF  
CIVIL RIGHTS

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**Cert. No.7005-1820-0001-7527-2131**

**In Reply Refer to:**  
**EPA OCR File #6R-02-R6**

Maria Laverde, Esq.  
Southern New Mexico Legal Services, Inc.  
300 N. Downtown Mall  
Las Cruces, NM 88001

**Re: Dismissal of Administrative Complaint**

Dear Ms. Laverde:

On July 29, 2002, Southern New Mexico Legal Services, Inc., filed an administrative complaint with the U.S. Environmental Protection Agency (EPA) on behalf of the Chaparral Community Health Council (CCHC). The complaint alleges that the New Mexico Environment Department (NMED) violated EPA's nondiscrimination regulations implementing Title VI of the Civil Rights Act of 1964, as amended, (Title VI found at 40 C.F.R. Part 7. Specifically, the complaint alleges that NMED issued a solid waste permit to Rhino Environmental Services, Inc., (Rhino) on January 30, 2002, for a landfill near Chaparral, New Mexico, which could create adverse impacts for the nearby Hispanic community. The EPA Office of Civil Rights (OCR) accepted the complaint for investigation on May 25, 2004.

NMED issued the permit to Rhino on January 30, 2002, however, the permit was appealed through the New Mexico state courts to the Supreme Court of New Mexico by the Colonias Development Council (CDC). The New Mexico Supreme Court issued a decision on July 18, 2005, that set aside NMED's final order issuing the permit and remanded the permit to NMED for "consideration of public testimony about the proposed landfill's adverse impact on a community's quality of life" and to "reconsider the public testimony opposing the landfill and explain the rationale for rejecting it, if the Secretary decides to do so." *Colonias Development Council v. Rhino Environmental Services, Inc.*, 117 P.3d 939, 941, 950 (July 18, 2005).

Since the New Mexico Supreme Court has decided that NMED must take into consideration the same concerns raised by CCHC in its Title VI complaint and has remanded Rhino's permit for reconsideration, CCHC's administrative complaint concerning the issuance of the solid waste permit to Rhino has become moot.

Accordingly, administrative complaint number 6R-02-R6 is hereby dismissed without prejudice.

If you have any questions, please contact Mike Mattheisen of my staff by telephone at (202) 343-9678, by e-mail at [Mattheisen.Mike@epa.gov](mailto:Mattheisen.Mike@epa.gov), or by mail to the U.S. EPA Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,

A handwritten signature in dark ink, appearing to read "for Karen D. Higginbotham". The signature is fluid and cursive, with the first part being a large, stylized "K" and "H".

Karen D. Higginbotham  
Director

cc: Tracy Hughes, General Counsel  
State of New Mexico Environment Department  
Office of General Counsel  
Harold Runnels Building  
1190 St. Francis, Drive  
P.O. Box 26110  
Santa Fe, NM 87502-6110

Stephen G. Pressman, Associate General Counsel  
Civil Rights Law Office (MC2399A)

Sherry Brown-Wilson, Title VI Coordinator  
EPA Region 6